

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

NATHAN ROBERTS, et al.,

Plaintiffs,

v.

PROGRESSIVE PREFERRED
INSURANCE COMPANY, et al.,

Defendants.

No. 1:23-cv-01597

Hon. Patricia A. Gaughan

Mag. Judge James E. Grimes, Jr.

**UNOPPOSED MOTION OF SOUTHERN POVERTY LAW CENTER, LAWYERS’
COMMITTEE FOR CIVIL RIGHTS UNDER LAW, HISPANIC NATIONAL BAR
ASSOCIATION, AND ASIAN AMERICANS ADVANCING JUSTICE – AAJC
FOR LEAVE TO FILE *AMICUS CURIAE* BRIEF**

Pursuant to Federal Rule of Civil Procedure 7(b), the Southern Poverty Law Center (“SPLC”), Lawyers’ Committee for Civil Rights Under Law (“Lawyers’ Committee”), the Hispanic National Bar Association (“NHBA”), and Asian Americans Advancing Justice – AAJC (“Advancing Justice – AAJC”) respectfully request leave of this Court to file the accompanying brief as *amici curiae*. All parties have consented to the filing of this brief.

There is no Federal Rule of Civil Procedure that applies to motions for leave to appear as *amicus curiae* in a federal district court, but district courts have discretion to grant leave and often look to Rule 29 of the Federal Rules of Appellate Procedure for guidance. District courts in this Circuit have permitted *amicus* participation. *See, e.g., Verble v. Morgan Stanley Smith Barney, LLC*, No. 3:15-CV-74-TAV-CCS, 2015 WL 12930320, at *1 (E.D. Tenn. Apr. 9, 2015) (citing cases).

Rule 29 provides that *amici* should state “the reason why an amicus brief is desirable and why the matters asserted are relevant to the disposition of the case.” Fed. R. App. P. 29(a)(3).

SPLC is a nonprofit civil rights organization dedicated to fighting hate and bigotry, and to seeking justice for the most vulnerable members of society. SPLC has participated as counsel or *amicus curiae* in a range of cases before the U.S. Supreme Court, federal appellate and district courts, and state courts in its efforts to secure equal treatment and opportunity for marginalized groups in all aspects of society.

Formed in 1963, the **Lawyers' Committee** is a nonpartisan, nonprofit organization that uses legal advocacy to achieve racial justice, fighting inside and outside the courts to ensure that Black people and other people of color have the voice, opportunity, and power to make the promises of our democracy real. To this end, the Lawyers' Committee has participated in hundreds of cases involving issues related to voting rights, housing, employment, education, and public accommodations. *See, e.g., Students for Fair Admissions, Inc. v. President & Fellows of Harvard Coll.*, 143 S. Ct. 2141 (2023); *Comcast Corp. v. Nat'l Ass'n of Afr. Am.-Owned Media*, 140 S. Ct. 1009 (2020). Among its work, the Lawyers' Committee seeks to protect and advance racial equity measures in philanthropy and other sectors as a remedy for past and ongoing discrimination and resulting racial disparities in access to capital. The Lawyers' Committee has a demonstrated interest in preventing the serious harm that would result to Black communities and other communities of color if charitable efforts to advance equity were undermined.

HNBA has a membership comprised of thousands of Latino lawyers, law professors, law students, legal professionals, state and federal judges, legislators, and bar affiliates across the country. The HNBA regularly participates as *amicus curiae* in courts across the country, including in civil rights and constitutional cases of importance to the millions of people of Hispanic heritage living in the United States.

Advancing Justice-AAJC is a national nonprofit organization based in Washington, D.C., and founded in 1991. Advancing Justice-AAJC works to advance and protect civil and human rights for Asian Americans and to promote an equitable society for all. Advancing Justice-AAJC is a leading expert on issues of importance to the Asian American community, including educational equity and opportunities, voting rights, immigrant rights, racial profiling, and the decennial census. Advancing Justice-AAJC works to promote justice and bring national and local constituencies together through community outreach, advocacy, and litigation.

Drawing on their expertise and experience furthering racial justice, *amici* aim to draw the Court's attention to the historical context and purpose of Section 1981 as a post-slavery remedial law to open opportunity to Black Americans and increase their access to economic opportunities. This information should aid the Court in reexamining the impetus for the enactment of the Civil Rights Act of 1866 and 42 U.S.C. § 1981 within the context of the claims and defenses of the parties.

This motion is filed in the interest of justice and without intent to delay. *Amici* previously filed a motion for leave and proposed *amicus curiae* brief, which are near-identical to the present motion and brief, on December 20, 2023. Dkt. No. 21. The Court granted *amici*'s motion on January 2, 2024. Text-only Order, Jan. 2, 2024. *Amici* seek leave to re-file their *amicus curiae* brief in support of Defendants' motions to dismiss filed February 7, 2024. Dkt. Nos. 34, 35. This motion and proposed brief are filed nine days after the filing of the briefs they support. Plaintiffs' response in opposition is due March 22, 2024. Text-only Order, Jan. 12, 2024. Thus, no party will be prejudiced by the granting of this motion.

For these reasons, *amici* respectfully urge the Court to grant this Consent Motion for Leave to File the attached brief and enter an order requiring such submission.

Respectfully submitted,

/s/ Kathryn J. Youker

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Counsel for Proposed Amicus Curiae Southern Poverty Law Center, Hispanic National Bar Association, and Asian Americans Advancing Justice – AAJC

Submitted: February 16, 2024

CERTIFICATE OF CONFERENCE

I certify that, on February 16, 2024, I conferred via email with counsel for Plaintiffs and Defendants as to their position regarding this motion. Counsel for Plaintiffs and counsel for Defendants responded via email that they consented to the relief requested in this motion.

February 16, 2024

/s/ Kathryn J. Youker
Kathryn Youker

CERTIFICATE OF SERVICE

I hereby certify that on February 16, 2024 a true and correct copy of the foregoing *Motion of Southern Poverty Law Center, Lawyers' Committee for Civil Rights Under Law, Hispanic National Bar Association, and Asian Americans Advancing Justice – AAJC for Leave to File Amicus Curiae Brief* was filed electronically with the Clerk of the Court for the United States District Court for the Northern District of Ohio, Eastern Division, and was thereby served upon counsel via operation of the Court's CM/ECF system pursuant to Local Rule 25.1(h).

February 16, 2024

/s/ Kathryn J. Youker
Kathryn Youker